

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

MARK J. THATCHER,

Plaintiff,

v.

CITY OF KOKOMO, et al.,

Defendants.

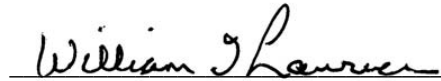
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CAUSE NO. 1:10-cv-101-WTL-TAB

ENTRY ON MOTION FOR SUMMARY JUDGMENT

The Indiana Supreme Court has issued its ruling resolving the controlling issues of Indiana law that were identified by this Court in reviewing the parties' briefs regarding the Defendants' motion for summary judgment. For the reasons set forth in detail in this Court's Entry certifying questions to the Indiana Supreme Court (dkt. no. 52), which is hereby incorporated herein, the Court finds the Indiana Supreme Court's ruling to be dispositive of the remaining claims in this case. Specifically, the Plaintiff alleges that the remaining Defendants violated the Age Discrimination in Employment Act ("ADEA") and the Americans with Disabilities Act ("ADA") by refusing to hire him in December 2009. The Indiana Supreme Court has now held that the Defendants were prohibited by Indiana law from hiring the Plaintiff. That fact brings the Defendants' age-based hiring decision within the exception contained in 29 U.S.C. § 623(j); accordingly, the Defendants did not violate the ADEA. That fact also means that the Plaintiff was not a "qualified individual with a disability"; accordingly, the Defendants did not violate the ADA. The Defendants' motion for summary judgment therefore is **GRANTED** with regard to the Plaintiff's ADA and ADEA claims. As the Plaintiff has voluntarily dismissed all of his other claims, final judgment will now issue.

SO ORDERED: 03/14/2012

A handwritten signature in cursive script, reading "William T. Lawrence", written in black ink on a white background. The signature is positioned above a horizontal line.

Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

Copies to all counsel of record via electronic notification